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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/379,675	08/24/1999	WALID AHMED	5	1585

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LOCUST VALLEY, NY 11560

EXAMINER
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SMITH, SHEILA B

ART UNIT	PAPER NUMBER
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2681

DATE MAILED: 02/07/2005

9

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/379,675

**Applicant(s)**

AHMED, WALID

**Examiner**

Sheila B. Smith

**Art Unit**

2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 01 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-23, 25 and 26 is/are rejected.
- 7) ☐ Claim(s) 11 and 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-10, 12-23, 25, 26 rejected under 35 U.S.C. 102(e) as being e by Ohyama et al. ( U.S. Patent Number 6,243,575).

***Regarding claim 1***, Ohyama et al. discloses essentially all the claimed invention as set fourth in the instant application, further Ohyama et al. discloses a mobile communication system mobile base station, and method of controlling them, in addition Ohyama et al. discloses a method for allocating a resource to a mobile station in a wireless communications network having at least one mobile base station (30), said method comprising the steps of collecting measurements of interference and load in said wireless communications network (which reads on a radio condition report as disclosed in column 11 lines 62-63), wherein said collected measurements include nominal resource availability information and measured resource availability information (which reads on column 12 lines 2-5); processing said collected information to identify a resource for said mobile station, and assigning said resource to said mobile station (which reads on column 12 lines 5-8).

**Regarding claims 2-5**, Ohyama et al. discloses everything claimed, as applied above (see claim 1) additionally, Ohyama et al. discloses measurements are collected from both said mobile station and said base stations (which reads on column 6 lines 55-61).

**Regarding claim 6**, Ohyama et al. discloses everything claimed, as applied above (see claim 1) additionally, Ohyama et al. discloses a mobile station in a wireless communications network having a plurality of base stations including at least one mobile base station (30), said method comprising the steps of collecting measurements of interference and load in said wireless communications network (which reads on a radio condition report as disclosed in column 11 lines 62-63), wherein said collected measurements include received power measurements from neighboring base stations (as disclosed in column 12 lines 51-63), processing said collected information to identify a resource for said mobile station, and assigning said resource to said mobile station (which reads on column 12 lines 5-8).

**Regarding claims 7-8**, Ohyama et al. discloses everything claimed, as applied above (see claim 1) additionally, Ohyama et al. discloses power measurements are received from said neighboring base stations on a beacon channel (which reads on column 12 lines 29-34).

**Regarding claims 9-10,12,13,25,26**, Ohyama et al. discloses everything claimed, as applied above (see claim 1) additionally, Ohyama et al. discloses a mobile station in a wireless communications network having a plurality of base stations including at least one mobile base station (30), said method comprising the steps of collecting measurements of interference and load in said wireless communications network (which reads on a radio condition report as disclosed in column 11 lines 62-63), wherein said collected measurements include predicted new load information (which reads on a radio condition report as disclosed in column 12 lines 51-63);

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processing said collected information to identify a resource for said mobile station; and assigning said resource to said mobile station (which reads on column 12 lines 5-8).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 14-23,25,26 rejected under 35 U.S.C. 103(a) as being unpatentable over Ohyama et al. in view of Lee (U.S. Patent Number 6,246,883).

***Regarding claim 14,19,23,*** Ohyama et al. discloses everything claimed, as applied above (see claim 1) additionally, Ohyama et al. a system for allocating a resource to a mobile station wireless communications network having at least one mobile base station, said system comprising processor configured to collect measurements of interference and load in said wireless communications network, wherein said collected measurements include nominal resource availability information and measured resource availability information(which reads on a radio condition report as disclosed in column 12 lines 51-63); process said collected information to identify a resource for said mobile station; and assign said resource to said mobile station (which reads on column 12 lines 5-8), however Ohyama et al. fails to disclose a memory for storing computer readable code; and a processor operatively coupled to said memory.

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In the same field of endeavor Lee discloses a mobile base station. Lee discloses does a memory (205) for storing computer readable code; and a processor (202) operatively coupled to said (via the controller 201) memory as disclosed in columns 4 lines 16-40 and as exhibited in figure 2.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify Ohyama et al. by specifically providing a memory for storing computer readable code; and a processor operatively coupled to said memory for the purpose of providing a mobile base station to travel within a certain proximity of the control station to effect a transfer.

***Regarding claim 15,*** Ohyama et al. in view of Lee discloses everything claimed, as applied above (see claim 1) additionally, Ohyama et al. discloses measurements are collected from both said mobile station and said base stations (which reads on column 12 lines 29-34).

***Regarding claim 16,*** Ohyama et al. in view of Lee discloses everything claimed, as applied above (see claim 1) additionally, Ohyama et al. discloses nominal resource availability information provides a measure of the load on said wireless communications network (which reads on column 12 lines 29-34).

***Regarding claim 17,*** Ohyama et al. discloses in view of Lee everything claimed, as applied above (see claim 1) additionally, Ohyama et al. discloses measured resource availability information provides a measure of the interference on said wireless communications network (which reads on column 12 lines 51-63).

***Regarding claim 18,*** Ohyama et al. discloses in view of Lee everything claimed, as applied above (see claim 1) additionally, Ohyama et al. discloses nominal resource availability is

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a nominal capacity value for each band on said network less the number of users on said band (which reads on column 12 lines 29-34).

*Regarding claim 20*, Ohyama et al. discloses in view of Lee everything claimed, as applied above (see claim 1) additionally, Ohyama et al. discloses wherein said power measurements are received from said neighboring base stations on a beacon channel (which reads on column 12 lines 51-63).

*Regarding claim 21*, Ohyama et al. discloses in view of Lee everything claimed, as applied above (see claim 1) additionally, Ohyama et al. discloses received power measurements provide an indication of the distance to a neighboring base station (which reads on column 12 lines 29-34).

*Regarding claim 22*, Ohyama et al. discloses in view of Lee everything claimed, as applied above (see claim 1) additionally, Ohyama et al. discloses measurements are collected from both said mobile station and said base stations (which reads on column 12 lines 51-63).

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a nominal capacity value for each band on said network less the number of users on said band (which reads on column 12 lines 29-34).

*Regarding claim 20*, Ohyama et al. discloses in view of Lee everything claimed, as applied above (see claim 1) additionally, Ohyama et al. discloses wherein said power measurements are received from said neighboring base stations on a beacon channel (which reads on column 12 lines 51-63).

*Regarding claim 21*, Ohyama et al. discloses in view of Lee everything claimed, as applied above (see claim 1) additionally, Ohyama et al. discloses received power measurements provide an indication of the distance to a neighboring base station (which reads on column 12 lines 29-34).

*Regarding claim 22*, Ohyama et al. discloses in view of Lee everything claimed, as applied above (see claim 1) additionally, Ohyama et al. discloses measurements are collected from both said mobile station and said base stations (which reads on column 12 lines 51-63).

***Response to Arguments***

3. Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.



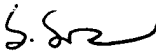
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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheila B. Smith whose telephone number is (703)305-0104. The examiner can normally be reached on Monday-Thursday 6:00 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached on 703-308-4825. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

S. Smith   
December 27, 2004

  
**DAVID HUDSPETH  
SUPERVISORY PATENT EXAMINER  
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